

***SURFACE TRANSPORTATION BOARD***  
***Washington, DC 20423***

*Section of Environmental Analysis*

May 2, 2003

Re: STB Finance Docket No. 34079, San Jacinto Rail Limited – Construction Exemption –  
And The Burlington Northern and Santa Fe Railway Company – Operation Exemption –  
Build-Out to the Bayport Loop Near Houston, Harris County, Texas: Availability of Final  
Environmental Impact Statement

To All Interested Parties:

On August 30, 2001, San Jacinto Rail Limited (SJRL) and The Burlington Northern and Santa Fe Railway (BNSF) (collectively the Applicants) filed a petition with the Surface Transportation Board (Board) pursuant to 49 United States Code (U.S.C.) 10502 for authority for construction by SJRL and operation by BNSF of a new rail line near Houston, Harris County, Texas. In the petition, the Applicants proposed the construction of approximately 12.8 miles of new rail line to serve the petrochemical industries in the Bayport Loop.

The Section of Environmental Analysis (SEA) announces the availability of the Final Environmental Impact Statement (EIS) on the proposed Bayport Loop Build-Out. The Final EIS was prepared in cooperation with three Federal agencies: the Federal Aviation Administration (FAA), the National Aeronautics and Space Administration (NASA), and the U.S. Coast Guard. Except as otherwise noted, the Final EIS incorporates by reference the Draft EIS.

The Final EIS is based upon SEA's independent analysis, consultation with agencies, elected officials, organizations, and members of the public, and careful consideration of all the comments on the Draft EIS. For the reasons discussed in the Final EIS, SEA has not altered the conclusions described in the Draft EIS that the Proposed Action and Alternatives would have moderate impacts on surface water, wetlands, and plant communities and negligible to no impacts on all other environmental resource categories.

Given the similarity of most of the impacts associated with the Build Alternatives (the Proposed Action, Original Taylor Bayou Crossing, and Alternatives 1C, 2B, and 2D) and the moderate to negligible nature of potential impacts, no single alternative has emerged as markedly preferable. While the various Build Alternatives have different pros and cons, none of the differences stand out enough to persuade SEA that one of the Build Alternatives is measurably superior or inferior. SEA, if it were acting on its own, would designate the Applicants' Proposed Action as the preferred alternative.

While agreeing with SEA that there are no potentially significant environmental impacts, FAA indicated that, for the reasons discussed more fully in the Final EIS, FAA would prefer that SEA not designate the Applicants' Proposed Action as the preferred alternative. In light of FAA's concerns, and as discussed in detail in the Final EIS, SEA is designating Alternative 1C as the preferred alternative. Alternative 1C is a modification of the Proposed Action based on SEA's consultations with FAA and the City of Houston. However, as all of the various Build Alternatives would result in generally similar impacts, none of which would be significant, SEA recommends that the Board find that all the Build Alternatives are fully acceptable from an environmental standpoint and should be approved.

If the Board decides to grant final approval for this project, SEA recommends that the Board grant permission for the Applicants to construct and operate any one of the Build Alternatives analyzed in detail, and impose the 76 voluntary mitigation measures developed by the Applicants and the 4 additional mitigation measures that SEA developed in the Final EIS.

The U.S. Environmental Protection Agency (USEPA) Region 6 reviewed the Draft EIS and classified the Draft EIS and the Proposed Action as "lack of objections," which is USEPA's highest rating. USEPA stated that the Draft EIS "demonstrates the Proposed Action would have no significant impact on the human environment and would have negligible impacts in all other areas."

The Final EIS, which is organized consistent with the President's Council on Environment Quality (CEQ) regulations, is intended to be read in conjunction with the Draft EIS, which provides more detailed information on the Proposed Action and Alternatives to agency decision-makers and the public. The Draft EIS describes the project's purpose and need, the Proposed Action and Alternatives, the existing environment, and the potential environmental impacts associated with the Proposed Action and Alternatives. The Draft EIS also includes a glossary of terms and a list of acronyms and abbreviations. The Final EIS responds to public comments on the Draft EIS; makes some corrections, principally concerning environmental justice data, and some minor changes to information presented in the Draft EIS; discusses SEA's conclusions about the environmental analysis; and includes SEA's final environmental mitigation recommendations. Further, the Final EIS reflects additional work conducted by SEA since publication of the Draft EIS to confirm conclusions presented in the Draft EIS concerning vibration and wetlands impacts; complete consultation on Essential Fish Habitat; evaluate the Applicants' voluntary conservation sites to assess their potential to attract wildlife and birds that could become a hazard to aviation at Ellington Field; and develop appropriate mitigation measures.

In making its final decision on the proposed expansion project, the Board will consider the entire environmental record, including all public comments, the Draft EIS, the Final EIS, and SEA's final recommended environmental mitigation.

SEA anticipates that USEPA will publish a notice of the availability of the Final EIS in the *Federal Register* on May 9, 2003. The Board's vote on whether to give final approval to this

proposal will be made no earlier than the same day (i.e., May 9, 2003). The deadline for filing administrative appeals will be 30 days from the publication of the notice of the Final EIS, to and including June 9, 2003. Moreover, the Board's final decision will not become effective for 30 days (i.e., no earlier than June 9, 2003). This schedule will afford the public adequate time to pursue administrative review of all aspects of the Board's final decision and is consistent with the CEQ regulations at 40 CFR 1506.10(b). The Board will consider any administrative appeals in a subsequent decision.

The entire Final EIS has been mailed to key reviewing agencies, elected officials, and organizations, as well as the parties of record. It is also available to all interested persons for review in the reference section of public libraries in the project area where the Draft EIS is also available. For information on where to view a copy of the Final EIS or to receive a copy, call SEA's toll-free Environmental Hotline at 1-888-229-7857 (TDD for the hearing impaired 1-800-877-8339). The entire document is also available on the Board's website (<http://www.stb.dot.gov>), under "Environmental Issues," "Key Cases," and "Bayport Loop."

SEA appreciates the efforts of all interested parties who reviewed and commented on the Draft EIS. Thank you for your interest and participation in the environmental review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson  
Chief  
Section of Environmental Analysis

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